

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

KEVIN F.,

Plaintiff,

v.

CIVIL ACTION NO. 5:23-cv-00305

MARTIN J. O'MALLEY,
Commissioner of the
Social Security Administration,

Defendant.

ORDER

Pending are (1) Plaintiff Kevin F.'s Memorandum in Support of Plaintiff's Motion for Judgment on the Pleadings [Doc. 6], filed June 29, 2023, and (2) the Commissioner's Brief in Support of Defendant's Decision [Doc. 7], filed July 31, 2023. This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Eifert filed her PF&R on January 26, 2024. Magistrate Judge Eifert recommended that the Court deny Plaintiff's request for judgment on the pleadings, grant the Commissioner's request for judgment on the pleadings, affirm the Commissioner's decision, and dismiss this action with prejudice.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's

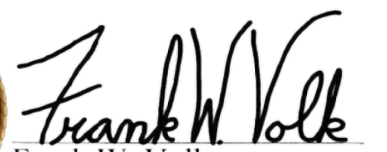
right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on February 9, 2024. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 8**], **DENIES** Plaintiff’s request for judgment on the pleadings [**Doc. 6**], **GRANTS** the Commissioner’s request for judgment on the pleadings [**Doc. 7**], **AFFIRMS** the Commissioner’s decision, and **DISMISSES** this matter, with prejudice, from the docket.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: February 13, 2024




Frank W. Volk
United States District Judge